

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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SEABORN MARINA, INC,

Plaintiff,

-against-

M/V PRIORITIES, ANNETTE McAVOY,
and CHARTER ONE BANK N.A.,

Defendants.

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ORDER ADOPTING R & R

Civil Action No. 11-1591(DRH)(ARL)

HURLEY, Senior District Judge:

Presently before the Court is the Report and Recommendation, dated February 21, 2017 (“R&R”), of Magistrate Judge Arlene R. Lindsay recommending that the motion of plaintiff for a default judgment be granted but that plaintiff’s request for damages and costs be denied with leave to renew due to deficiencies in its proof. More than 14 days have passed since service of the R&R and no objections have been filed by defendants. Plaintiff has filed a document denoted as objections to the report but which in actuality is a “declaration for the purpose of submitting further evidence in support of Plaintiff’s request for an award of damages and costs.” DE 24. In other words, Plaintiff does not dispute that the deficiencies noted by Judge Lindsay exists but rather seek to remedy them.

Having reviewed the R&R de novo, the Court adopts it in its entirety. As to whether the additional materials submitted by Plaintiff warrant an award of damages and costs, that matter is referred to Magistrate Judge Lindsay for Report and Recommendation.

IT IS HEREBY ORDERED that plaintiff's motion for a default judgment is granted to the extent that plaintiff is entitled to enforce the maritime lien in rem over the vessel and extinguishment of any and all rights or claims that Charter Bank may still possess with regard to the vessel, but denied without prejudice to the extent plaintiff seeks an award of damages and costs; and

IT IS FURTHER ORDERED that this matter is referred to Magistrate Judge Lindsay for a Report and Recommendation as to whether the additional materials submitted by Plaintiff warrant an award of damages and costs.

Dated: Central Islip, N.Y.
March 24, 2017

/s/ Denis R. Hurley
Denis R. Hurley
United States District Judge